

AMENDED IN SENATE MAY 15, 2012

AMENDED IN SENATE MAY 1, 2012

SENATE BILL

No. 1149

**Introduced by Senator DeSaulnier
(Principal coauthor: Senator Steinberg)**

February 21, 2012

An act to add Title 7.1.5 (commencing with Section 66538) to the Government Code, relating to the Bay Area Regional Commission.

LEGISLATIVE COUNSEL'S DIGEST

SB 1149, as amended, DeSaulnier. Bay Area Regional Commission.

Existing law creates the Metropolitan Transportation Commission, the Bay Area Toll Authority, the Bay Area Air Quality Management District, and the San Francisco Bay Conservation and Development Commission, with various powers and duties relative to all or a portion of the 9-county San Francisco Bay Area region with respect to transportation, air quality, and environmental planning, as specified. Another regional entity, the Association of Bay Area Governments, is created as a joint powers agency comprised of cities and counties under existing law with regional planning responsibilities. Existing law provides for a joint policy committee of certain regional agencies to collaborate on regional coordination. Existing law requires regional transportation planning agencies, as part of the regional transportation plan in urban areas, to develop a sustainable communities strategy coordinating transportation, land use, and air quality planning, with specified objectives.

This bill would create the Bay Area Regional Commission, ~~to be governed by 15 commissioners elected beginning in 2014 from districts in the Bay Area region,~~ with specified powers and duties, including the

powers and duties previously exercised by the joint policy committee. The bill would require the regional entities that are funding the joint policy committee to continue to provide the same amount of funding as provided in the 2012–13 fiscal year, as adjusted for inflation, but to provide those funds to the commission rather than to the committee. The bill would provide for the Bay Area Toll Authority to make contributions to the commission, as specified, in furtherance of the exercise of the authority’s toll bridge powers. The bill would require federal and state funds made available to the Metropolitan Transportation Commission for purposes of transportation planning to be budgeted to the Bay Area Regional Commission. The bill would specify the powers and duties of the commission relative to the other regional entities referenced above, including the power to approve the budgets of those regional entities and to develop an integrated budget for the commission and the regional entities. The bill would provide for the commission’s executive director to develop a regional reorganization plan, with consolidation of certain administrative functions of the regional entities under the commission, with a final plan to be adopted by the commission by June 30, 2016. The bill would require organization of the regional entities as divisions of the commission, and would require the executive director to recommend candidates for vacant executive director positions at the regional entities as these positions become vacant. The bill would require the commission to adopt public and community outreach policies by October 31, 2015. The bill would require the commission to review and comment on policies and plans relative to the transportation planning sustainable communities strategy of the regional entities under Senate Bill 375 of the 2007–08 Regular Session, and beginning on January 1, 2017, the bill would provide for the commission to adopt or seek modifications to the functional regional plan adopted by each regional entity in that regard and would provide that the commission is responsible for ensuring that the regional sustainable communities strategy for the region is consistent with Senate Bill 375 of the 2007–08 Regular Session. The bill would require the commission to prepare a 20-year regional economic development strategy for the region, to be adopted by December 31, 2015, and updated every 4 years thereafter. The bill would require any changes proposed by the commission with respect to bridge toll revenues managed by the Bay Area Toll Authority to be consistent with bond covenants, and would prohibit investment in real property of toll revenues in any reserve fund.

This bill would enact other related provisions.

Because the bill would impose various requirements on local entities, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. Title 7.1.5 (commencing with Section 66538) is added to the Government Code, to read:

TITLE 7.1.5. BAY AREA REGIONAL COMMISSION

66538. The Legislature finds and declares all of the following:

(a) Various institutional reforms were initiated in the nine-county San Francisco Bay region during the mid-20th century to address the needs for regional intergovernmental cooperation, including the formation of the Bay Area Air Quality Management District in 1955; the formation of a voluntary council of governments, the Association of Bay Area Governments in 1961 to enhance the coordination of land use policy decisions across municipal and county boundaries; the formation of the Bay Conservation and Development Commission in 1965 with the mission of preserving and protecting San Francisco Bay and its estuary system from destructive and ill-planned encroachment; and the establishment of the Metropolitan Transportation Commission in 1970, California's first statutorily created regional transportation planning agency, to plan the region's transportation infrastructure, to prioritize transportation investments, and to organize and manage the allocation of financial resources necessary to implement the regional transportation plan.

(b) Regional planning requirements have increased significantly during the last 40 years. Among the most important changes in

1 state law governing the terms and conditions of regional planning
2 are those mandated by Senate Bill 375 of the 2007–08 Regular
3 Session (Chapter 728 of the Statutes of 2008). Among the
4 provisions of this statute is a requirement that a regional
5 transportation plan in urban areas include a sustainable
6 communities strategy designed to achieve greenhouse gas emission
7 reduction targets established by the State Air Resources Board.
8 The successful implementation of the sustainable communities
9 strategy requires close cooperation between regional and local
10 agencies in preparing land use, transportation, and regional air
11 quality management plans. Existing law requires collaboration
12 between the Metropolitan Transportation Commission and the
13 Association of Bay Area Governments when preparing the
14 sustainable communities strategy; however, there is no independent
15 policy body governing the collaboration. In addition to regional
16 collaboration, there is a need, when preparing the sustainable
17 communities strategy, for collaboration with the cities and counties
18 responsible for land use planning, but where that responsibility
19 resides is unspecified. This title is intended to address and remedy
20 these deficiencies.

21 (c) There is a need to integrate regional policymaking among
22 the Metropolitan Transportation Commission and its associated
23 agency, the Bay Area Toll Authority; the Bay Area Air Quality
24 Management District; the Bay Conservation and Development
25 Commission; and the Association of Bay Area Governments. These
26 regional entities have important responsibilities associated with
27 establishing and maintaining the region’s sustainable communities
28 strategy. Recognizing the need to integrate regional planning, this
29 title establishes a regional policymaking process, in collaboration
30 with the governing boards of the regional entities, to ensure that
31 regional policies are developed within a common framework and
32 establishes a single point of contact for the general public and
33 public agencies having an interest in regional policies and
34 programs. Further, in an effort to achieve efficiencies, it
35 consolidates common administrative functions and establishes
36 processes for coordinating professional functions among the
37 regional entities. It also provides for direct public accountability
38 on regional issues by establishing a ~~regionally-elected~~ governing
39 board, to be known as the Bay Area Regional Commission.

(d) An important objective of Senate Bill 375 of the 2007–08 Regular Session was to reduce the migration of workers and jobs outside of the region because of the need for affordable housing. In light of these circumstances, there is a need to create an economic development strategy for the region that will attract and retain businesses. To this end, the creation of an economic strategy is necessary that builds on the education resources of the region, including high schools, community colleges, and public and private universities, and recognizes the need for a diversified regional economy with employment opportunities for a wide spectrum of skills. In developing this strategy, it is important to sustain the environment and the social and cultural amenities that historically have made the bay area an unquestionably desirable place to live and work.

66538.1. For purposes of this title, the following definitions shall apply:

(a) “Commission” means the Bay Area Regional Commission.

(b) “Commissioners” means the governing board of the Bay Area Regional Commission.

(c) “Region” means the area encompassed by the Counties of Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Solano, and Sonoma.

(d) “Regional entities” means the Metropolitan Transportation Commission, including any joint exercise of powers agencies that include the commission as a member agency; the Bay Area Toll Authority; the Bay Area Air Quality Management District; the San Francisco Bay Conservation and Development Commission; and the Association of Bay Area Governments.

66538.2. (a) The Bay Area Regional Commission is hereby established, and the commission shall succeed to and is vested with all the duties, powers, purposes, responsibilities, and jurisdiction of the joint policy committee described in Sections 66536, 66536.1, and 66536.2, as well as any additional duties, powers, purposes, responsibilities, and jurisdiction provided in this title.

(b) The regional entities that are funding the joint policy committee shall continue to provide that level of funding, with the funding to be provided to the commission rather than to the committee. The amount to be provided by each regional entity shall be, at a minimum, the amount provided in the 2012–13 fiscal

1 year, adjusted annually for inflation, but may be a greater amount.
2 The commission may seek additional funding for purposes of
3 implementing this title from the regional entities.

4 (c) The Bay Area Toll Authority shall make contributions to
5 the Bay Area Regional Commission in furtherance of the exercise
6 of the authority's powers under Division 17 (commencing with
7 Section 30000) of the Streets and Highways Code, including,
8 without limitation, contributions in the form of personnel services,
9 office space, and funding. The authority shall also make
10 contributions to the commission on a reimbursement-for-cost basis;
11 provided, however, that reimbursement shall not be required to
12 the extent that the contributions provided are determined by the
13 commission to be in furtherance of the exercise of the authority's
14 powers under that division.

15 (d) Federal and state funds made available to the Metropolitan
16 Transportation Commission for purposes of transportation planning
17 shall be budgeted to the Bay Area Regional Commission.

18 (e) The joint policy committee shall employ an interim executive
19 director for the commission to serve until June 30, 2015, or until
20 his or her successor has been appointed pursuant to Section
21 66538.3, whichever first occurs. The interim executive director
22 may act on behalf of the commission until commissioners ~~are~~
23 ~~elected and~~ take office.

24 (f) During a transition period, until January 1, 2017, the
25 commission shall review and comment on draft plans and proposed
26 final plans for the regional transportation system, the sustainable
27 communities strategy as described in Section 65088 of this code
28 and Chapter 4.2 (commencing with Section 21155) of Division 13
29 of the Public Resources Code, and other plans and regulations.
30 Thereafter, review of these plans and regulations shall be subject
31 to Section 66538.11.

32 ~~(g) (1) The commission shall draw the boundaries for 15~~
33 ~~districts from which candidates for the commissioners shall be~~
34 ~~elected. The commission shall ensure compliance with all~~
35 ~~applicable state and federal laws regarding the apportionment of~~
36 ~~population among the districts.~~

37 ~~(2) Initial commission elections, including primary and general~~
38 ~~elections, shall take place in 2014.~~

39 ~~(3) The term of office for each commissioner shall be four years,~~
40 ~~except as otherwise provided by Section 66538.3.~~

1 ~~(h) The commission shall undertake a study to determine the~~
2 ~~feasibility of publicly financing the elections of commissioners~~
3 ~~for subsequent elections.~~

4 66538.3. (a) The commissioners ~~elected in 2014~~ shall take
5 office on the first Monday after January 1, 2015.

6 ~~(b) No later than January 15, 2015, the commissioners shall~~
7 ~~draw lots to determine the initial terms of office by district. Seven~~
8 ~~commissioners shall serve an initial term of two years and eight~~
9 ~~commissioners shall serve an initial term of four years.~~

10 (e)

11 (b) The commission shall appoint an executive director, a chief
12 legal counsel, and a chief financial officer by June 30, 2015. These
13 officers shall serve at the pleasure of the commission. The
14 executive director may appoint additional staff of the commission.

15 66538.4. (a) The commission shall authorize its executive
16 director to prepare a regional reorganization plan. The commission
17 shall adopt goals and policies to govern the preparation of the plan.
18 Among the goals shall be a statement as to the expected reduction
19 in the cost of overhead and in the operation and management of
20 the regional entities. All cost saving shall be directed to the
21 commission's general fund. In addition, goals shall be adopted for
22 integrating the regional planning requirements for the regional
23 plans of each regional entity into a comprehensive regional plan.

24 (b) When preparing the regional reorganization plan, the
25 executive director shall include a plan for consolidating the
26 functions that are common to the regional entities, including, but
27 not limited to, personnel and human resources, budget and financial
28 services, electronic data and communications systems, legal
29 services, contracting and procurement of goods and services, public
30 information and outreach services, intergovernmental relations,
31 transportation, land use, economic, and related forecasting models,
32 and other related activities. Consideration shall be given to ensuring
33 that there are common personnel classifications where appropriate
34 among the regional entities, and the consolidation of other functions
35 or activities, as deemed feasible, that will further the mission of
36 the commission and will reduce redundancy. The plan shall be
37 updated as determined by the commission.

38 (c) On or before December 31, 2015, the executive director
39 shall submit to the commission a draft regional reorganization
40 plan. The commission shall hold at least one public hearing in each

1 county of the region to receive public comment. A final plan shall
2 thereafter be adopted for implementation on or before June 30,
3 2016.

4 66538.5. The commission shall be the fiscal agent for the
5 regional entities, responsible for preparing the annual budget and
6 managing the financial resources for each entity.

7 66538.6. (a) In consultation with the regional entities, the
8 executive director shall, on or before April 1, 2015, and on or
9 before April 1 of each year thereafter, prepare and submit to the
10 governing board of each regional entity a recommended integrated
11 budget for the commission and for the regional entities for the
12 subsequent fiscal year. The commission shall adopt the integrated
13 budget for the 2015–16 fiscal year by June 30, 2015, and by June
14 30 of each fiscal year thereafter.

15 (b) Prior to developing the integrated budget, the executive
16 director shall submit to the commission, for adoption, proposed
17 performance criteria to govern budgetary priorities. After the
18 adoption of the initial integrated budget, the executive director
19 shall report in subsequent annual budgets the extent to which the
20 performance criteria for the previous fiscal year were met. A new
21 set of performance criteria may be proposed and adopted for
22 subsequent fiscal years.

23 66538.7. To integrate the management of the commission with
24 that of the regional entities, the commission's executive director
25 shall do both of the following:

26 (a) Organize the regional entities as divisions of the
27 commission, with each regional entity to continue to be governed
28 by any applicable statute pertaining to that entity, except for
29 resource allocation, which shall be governed by Section 66538.5,
30 and except as otherwise provided in this title.

31 (b) Recommend a candidate for the executive director of each
32 regional entity as positions become vacant.

33 66538.8. The commission shall develop and adopt public and
34 community outreach policies to govern the scheduling of
35 commission meetings, the meetings of regional entities, the
36 meetings of standing committees, and meetings of ad hoc or other
37 temporary committees. In developing the policies, the commission
38 shall ensure that outreach programs will utilize all available
39 communication technologies, including webcasting and social
40 media, print, radio, and television. The commission shall also

1 establish policies for the holding *of* workshops of the commission
2 and the regional entities in the cities and counties of the region.
3 The commission shall provide an opportunity for the public to
4 comment on the draft and the final recommended policies. The
5 policies shall be adopted on or before October 31, 2015.

6 66538.9. The commission shall maintain an Internet Web site
7 containing relevant information pertaining to the commission's
8 activities.

9 66538.10. The commission shall be subject to the Ralph M.
10 Brown Act (Chapter 9 (commencing with Section 54950) of Part
11 1 of Division 2 of Title 5).

12 66538.11. (a) Beginning on January 1, 2017, the commission
13 shall review the policies and plans, and associated regulations, of
14 each regional entity as provided in this section. The review shall
15 include an assessment of the consistency of the policies, plans,
16 and regulations among the regional entities with the requirements
17 of Senate Bill 375 of the 2007–08 Regular Session. The
18 commission shall issue a consistency report describing the findings
19 of this review. The commission shall hold public and community
20 hearings in accordance with its public outreach policies regarding
21 the draft consistency findings. The findings of the consistency
22 review shall be used in fulfilling the commission's regional
23 planning responsibilities.

24 (b) The commission shall establish a process to develop and
25 implement its own policies, goals, and regulations, including
26 performance measures, governing the preparation and adoption of
27 the plans prepared by the regional entities, provided they are
28 consistent with the relevant state and federal laws governing
29 transportation planning and programming, the management of
30 regional air resources, bay shoreline planning, toll bridges, and
31 regional land use and housing policies. The commission shall
32 develop a schedule for implementing this subdivision.

33 (c) Consistent with the policies adopted pursuant to subdivision
34 (b), the governing board of each regional entity shall submit its
35 functional regional plan to the commission for adoption. The
36 commission shall adopt the functional regional plans, except as
37 provided in this subdivision. Should the commission determine
38 not to adopt a recommended ~~function~~ *functional* regional plan, it
39 shall submit to the applicable regional entity its findings underlying
40 its decision, including referencing policies, goals, and performance

1 measures adopted pursuant to subdivision (b), the goals of the
2 economic development strategy, and any inconsistency with Senate
3 Bill 375 of the 2007–08 Regular Session. The regional entity shall
4 redraft its functional regional plan in response to the findings of
5 the commission and resubmit the plan.

6 (d) The commission shall be responsible for ensuring that the
7 sustainable communities strategy for the region integrates
8 transportation, land use, and air quality management consistent
9 with the requirements of Senate Bill 375 of the 2007–08 Regular
10 Session.

11 66538.12. (a) The commission shall prepare a 20-year regional
12 economic development strategy for the region. The goal of the
13 economic development strategy shall be to ensure that the regional
14 economy is capable of adapting to changes in technology, market
15 demand, and direction of the national and international economy.
16 The strategy shall include, but not be limited to, all of the
17 following:

18 (1) A socioeconomic profile of each county shall be developed.

19 (2) Identification of the types and location of major clusters of
20 firms that are both competitive and complementary enterprises for
21 each county.

22 (3) Identification of the sectors of the economy where there is
23 underinvestment and a workforce with high unemployment or
24 underemployment.

25 (4) Identification of sectors where investment in specific sectors
26 of the economy would enhance the probability of increasing the
27 employment opportunities for the unemployed or underemployed.

28 (5) Identification of the public and private investments that are
29 needed to facilitate the development of new or enhancement of
30 existing sectors of the regional economy.

31 (6) Identification of the social equity issues within the region
32 and the extent these issues may be addressed by the economic
33 development strategy. The strategy may identify institutional issues
34 that are barriers to addressing social equity.

35 (7) A profile of the unique regional environmental amenities as
36 well as the social and cultural amenities that are found to contribute
37 to employers being attracted to and remaining in the region.

38 (b) In consultation with the regional entities, the commission
39 shall adopt goals and policies related to the inclusion of economic
40 development opportunities in the plans of the regional entities and

1 in its own plans. The goals and policies shall also promote
2 amenities that are special to the region and contribute to the
3 region's quality of life.

4 (c) The commission shall appoint an advisory committee with
5 members from the business community, including representatives
6 of small businesses, technology and manufacturing sectors,
7 community colleges, public and private universities, labor, local
8 governments, and other organizations involved with the private
9 economy. The commission shall coordinate the preparation of the
10 strategy with the advisory committee and with the regional entities.

11 (d) Consistent with its public outreach plan, the commission
12 shall hold public and community outreach as it deems appropriate
13 for both draft and final economic development strategies. The
14 commission may hold other public outreach sessions as appropriate
15 during the course of preparing the economic development strategy.

16 (e) The commission shall adopt the first economic development
17 strategy plan by December 31, 2015, and an updated strategy every
18 four years thereafter.

19 66538.13. (a) Changes proposed by the commission in policies
20 related to tolls and the management of the seven state-owned toll
21 bridges within the jurisdiction of the Bay Area Toll Authority shall
22 be consistent with and shall conform with the terms and conditions
23 of any covenants and agreements related to the use of toll revenues
24 and the financing and refinancing of any associated debt.

25 (b) Toll revenues managed by the Bay Area Toll Authority shall
26 be used only to acquire, construct, manage, maintain, lease, operate,
27 or construct facilities required for the management of the
28 state-owned toll bridges within its jurisdiction, for improvements
29 to the toll bridges, to provide access to the toll bridges within its
30 jurisdiction, or for associated transportation projects specifically
31 authorized to be undertaken with bridge toll revenues pursuant to
32 the relevant provisions of the Streets and Highways Code.
33 Revenues in any reserve funds established pursuant to bond
34 covenants or other related agreements shall not be invested in real
35 property.

36 (c) No more than 5 percent of the toll revenues shall be used
37 for administration and planning of the transportation system that
38 serves the travel corridors that are served by the toll bridges.

1 66538.14. To the extent of any conflict between this title and
2 a statute governing any of the regional entities, this title shall
3 prevail.

4 SEC. 2. If the Commission on State Mandates determines that
5 this act contains costs mandated by the state, reimbursement to
6 local agencies and school districts for those costs shall be made
7 pursuant to Part 7 (commencing with Section 17500) of Division
8 4 of Title 2 of the Government Code.